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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 22163 of 1995

Between:

Bicham Naik Alias Bicham S/o.Rao singh
R/o.Neral Thanda , Mandal Gandhari Nizamabad Dist.

..... PETITIONER

AND

Dist. Collector & Dist.Magistrate
Nizamabad Dist. Nizamabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, preferably a writ in the nature of writ of mandamus, declaring the order of the Collector and District Magistrate, Nizamabad bearing No. D6/1244/95 dt. 24/08/1995 as illegal, arbitrary and unjustified and set-aside the same.

Counsel for the Petitioner:MR.T.A.GOUD

Counsel for the Respondent : GP FOR SOCIAL WELFARE

The Court made the following :

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ORDER:

The present writ petition has been filed by the petitioner to declare the action of the respondent in cancelling the Caste Certificate by order dated 24.8.1995 bearing No.D6/1244/95 issued by the Block Development Officer, Yellareddy, Nizamabad District, as illegal and arbitrary and against the principles of natural justice.

The petitioner is M.P.T.C. for Gandhari mandal under the candidature of S.T. candidate. On 31.3.1995, a show cause notice has been issued to the petitioner by the respondent to show cause as to why his Caste Certificate should not be cancelled. In response to the same, the petitioner seems to have filed his explanation on 24.4.1995.

At this stage, the learned counsel for the petitioner while attacking the order impugned on the ground that enquiries have been made behind the petitioner, submits that the same is in violation of the A.P. S.C. S.T. & Backward Classes-Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 and therefore, it is liable to be set aside.

I have perused the order impugned. The said order was passed by the respondent-District Collector. In this regard, it is not out of place mention as to the Rule 5 (i) of the A.P. S.C. S.T. & Backward Class- Issue of Community, Nativity and Date of Birth Certificates Rules, 1997, which contemplates that the competent authority, in the cases of doubtful claims, shall refer the matter to the Chairman of the Scrutiny Committee formed at the District Level under rule 8, for the recommendations of the Committee, with regard to the issue of the community, nativity and date of birth certificate as applied for by the applications. On receipt of the recommendations of the Scrutiny Committee, the Competent authority shall accordingly confirm or reject the claims of the applicants.

Coming to the case on hand, it is apparent on the face of the record that this exercise has not been followed while issuing the order impugned. Therefore, I am of the opinion that the order impugned is in violation of rule 5 (i) of the Rules and on that account, the order is liable to be set aside and remanded back to the competent authority.

Accordingly, the order impugned is set aside and the matter is remanded back to the respondent for fresh disposal. The respondent is directed to adhere to the procedure adopted under Rule 5 (i) of the A.P. S.C. S.T. and Backward Classes-Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 while passing the order, if any. This exercise shall be completed within a period of six (6) months from the date of receipt of a copy of this order.

Subject to the above directions, this writ petition is disposed of. No costs.

16-09-2004

Stp

// TRUE COPY //

SECTION OFFICER

To

1. Dist. Collector & Dist.Magistrate Nizamabad Dist. Nizamabad.

2.2CCs to G.P.for Social Welfare,High Court of A.P.Hyd.(OUT)

3.2CD copies

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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